

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

STATE OF TEXAS, et. al.,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,
et. al.,

Defendants.

Case No. 2:24-cv-86-Z

**CITIZENS DEFENDING FREEDOM'S MOTION FOR LEAVE
TO APPEAR WITHOUT LOCAL COUNSEL**

The undersigned counsel, who is admitted to this court and resides within the Northern District of Texas, but not within the required 50 miles of this Division, respectfully requests this Court's leave for the below undersigned counsel of the Binnall Law Group to participate in this litigation solely for the purpose of serving as counsel for proposed *amicus curiae* Citizens Defending Freedom, without separate local counsel as required under N.D. Tex. R. 83.10(a).

BACKGROUND

1. Plaintiff State of Texas and Plaintiffs Daniel A. Bonevac and John Hatfield seek a stay of agency action and a preliminary injunction on a Final Rule, ECF No. 16, of which Defendant, the United States of America, opposes.

2. Citizens Defending Freedom ("CDF") is a nonprofit, utilizing its resources to ensure every American citizen is equipped and empowered to stand for

and preserve their constitutional rights and freedoms for themselves and future generations. CDF is committed to helping ensure federal agencies do not promulgate final rules that are unconstitutional or impose additional compliance costs of its members, the public, parents, or students. Its purpose includes educating the American public on issues that must be considered in a Title IX ruling on these critical issues. The outcome of this case will have a direct effect on CDF and how it allocates its resources.

3. CDF is not a party to this action and seeks only to file an *amicus curiae* brief in support of Plaintiffs' pending motion and preliminary injunction and does not seek to participate in oral argument or any hearings. CDF only seeks to file an *amicus* brief to provide the Court with additional briefing regarding the broad effects that would result from the Final Rule. *See, e.g. Lefebure v. D'Aquila*, 15 F.4th 670, 676 (2021) (granting leave to file a brief as amici curiae because courts should grant "motions for leave to file amicus briefs unless it is obvious that the proposed briefs do not meet Rule 29's criteria as broadly interpreted.") (quoting *Neonatology Assocs., P.A. v. Comm'r of Internal Revenue*, 293 F.3d 128, 133 (3rd Cir. 2002)). Given the minimal involvement of CDF in this matter, the obligations and duties of counsel can be fulfilled without the necessity of local counsel. If CDF is required to participate further or attend any hearing, undersigned counsel resides within the Northern District of Texas and can be available on short notice. In addition, other counsel for CDF reside near airports and can also be available on short notice.

4. Further, the time and expense required to locate, screen, and educate local counsel presents a hardship to CDF. Accordingly, CDF respectfully seeks leave to participate in this litigation without local counsel for the limited purpose of filing an *amici curiae* brief.

ARGUMENT

5. This case is unique in that Principal Plaintiff Texas and Defendants are exempt from the local rule requirement. Under N.D. Tex. R. 83.11, and unless the presiding judge directs otherwise, an attorney appearing on behalf of the United States Justice Department or the Attorney General of the State of Texas, and who is eligible pursuant to LR 83.9(a) to appear in this court, shall be exempt from the local counsel requirement of N.D. Tex. R. 83.10.

6. As such, no additional delay would result from granting the requested relief because proposed *amicus* is not seeking to participate in any hearing and any hearing on short notice will require that other counsel also travel. Therefore, no additional delay will come from counsel for proposed *amicus* traveling to attend any hearing, if required.

7. Moreover, counsel for proposed *amicus* certify to the Court they will be available for hearings called on short notice, including emergency hearings that may need to be held within twenty-four hours' notice. The undersigned resides in the Northern District of Texas and other counsel reside in close proximity to airports with regular flights to Texas.

8. The undersigned is admitted to the Northern District of Texas and has significant experience in using the CM/ECF system in multiple federal courts. The undersigned has also reviewed and is familiar with the Local Rules of the Northern District of Texas and is prepared to abide by its rules and procedures.

9. As such, granting the relief requested will comport with the purpose of Local Rule 83.10 that counsel be present and available to argue a party's position at any hearing called by the presiding judge on short notice.

10. Pursuant to Local Rule 7.1(h), counsel for CDF has conferred with counsel for Plaintiffs and Defendants regarding the relief requested here. All parties have consented to the relief sought in this motion.

CONCLUSION

Wherefore, for the foregoing reasons, CDF respectfully requests the Court enter an Order allowing undersigned counsel to appear without local counsel as required under N.D. Tex. R. 83.10(a).

Dated: June 26, 2024

Respectfully submitted,

/s/ Molly McCann
Molly McCann, VA Bar 94222
Lindsay R. McKasson*
Benjamin F. North*
Shawn M. Flynn*
BINNALL LAW GROUP
717 King Street. Suite 200
Alexandria, VA 22314
Ph: (703) 888-1943
Fax: (703) 888-1930
molly@binnall.com

lindsay@binnall.com
ben@binnall.com
shawn@binnall.com

JONATHAN K. HULLIHAN*
Remnant Law
5900 Balcones Drive # 20675
Austin, TX 78731
Phone: (512) 720-6218
Fax: (512) 200-4616
JHullihan@Remnantlawgroup.com

James H. K. Bruner, Esq.*
Citizens Defending Freedom
P.O. Box 156
Mulberry, Florida 33860
Phone: 850 -228- 4227

*Counsel for Citizens Defending
Freedom*

**Pro hac vice* forthcoming

CERTIFICATE OF CONFERENCE

I hereby certify that, on June 19, 2024, counsel for *amicus* conferred with all parties' counsel regarding the contents of this motion. Both parties do not oppose this motion.

/s/ Molly McCann
Molly McCann

*Counsel for Citizens Defending
Freedom*

CERTIFICATE OF SERVICE

I certify that on June 26, 2024, a copy of the foregoing was filed with the Clerk of the Court using the Court's CM/ECF system, which will send a copy to all counsel of record.

/s/ Molly McCann
Molly McCann

*Counsel for Citizens Defending
Freedom*